

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

HON. ANDREW G. KLEIN

CLERK OF THE COURT

C. Vila

Deputy

IN RE THE MATTER OF
BRANDAN G ROBINSON

SUSANNE M STERNBERG

AND

NICOLE V ICE

NICOLE V ICE
2946 W. ALTADENA AVE.
PHOENIX AZ 85029

SCOTT BAKER
8350 E RAINTREE DR
STE 120
SCOTTSDALE AZ 85260

MINUTE ENTRY

Courtroom CCB 604

Prior to Trial, Respondent's Exhibits 1 through 39 are marked for identification and Petitioner's Exhibits 40 through 45 are marked for identification.

1:37 p.m. This is the time set for Trial with regard to Petitioner's June 23, 2010 Petition for Modification of Custody and Parenting Time. Petitioner/Father, Brandan G. Robinson, is present with counsel, Susanne M. Sternberg. Respondent/Mother, Nicole V. Ice, is present on her own behalf.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Brandan G. Robinson and Nicole V. Ice are sworn.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

Discussion is held with the Court.

Trial proceeds.

Brandan G. Robinson, having been previously sworn, testifies.

Petitioner's Exhibits 44 and 45 are received in evidence.

Respondent's Exhibits 28, 34, 35 and 37 are received in evidence.

2:49 p.m. Court stands at recess.

2:58 p.m. Court reconvenes with respective parties and counsel present.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Nicole V. Ice, having been previously sworn, testifies.

Petitioner's Exhibit 46 is marked for identification.

IT IS ORDERED taking this matter under advisement.

Discussion continues with the Court.

On stipulation of the parties,

IT IS ORDERED modifying the Order of Protection issued on January 20, 2011 to reflect that the parties may communicate by e-mail or text message only as it relates to the child.

LET THE RECORD REFLECT that Father signs an Acceptance of Service Form in open court.

ISSUED: Hearing Order, Amended Order of Protection, and Acceptance of Service.

LET THE RECORD REFLECT the parties receive copies of the aforementioned documents in open court.

There being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of the Court,

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

IT IS ORDERED that the Clerk permanently release all exhibits not offered in evidence to the counsel causing them to be marked, or to their written designee. Counsel shall have the right to re-file relevant exhibits as needed in support of any appeal. Re-filed exhibits must be accompanied by a Notice of Re-filing Exhibits and presented to the Exhibits Room of the Clerk's Office. The Court's exhibit tag must remain intact on all re-filed exhibits.

IT IS FURTHER ORDERED that counsel or written designee take immediate possession of all exhibits referenced above.

ISSUED: Exhibit Release Form

4:19 p.m. Matter concludes.

LATER:

On June 23, 2010, Father filed a Petition to Modify Custody and Parenting Time. The parties have two children, Isaiah Ice (DOB: 5/7/2004) and Elijah Ice (DOB: 8/23/2006). Father seeks sole custody with Mother having parenting time on alternating weekends, plus one night during the week. Mother wishes for the current order of joint custody to be affirmed and the current parenting time order for equal access to be affirmed as well.

Although the parties currently share physical custody of the children on a 5-2-2-5 plan, Mother now wants a one week on/one week off schedule to minimize the exchanges and to provide for more stability in the children's lives. The original custody order was part of the 6/12/08 Decree. According to the Decree, neither party was designated primary residential parent.

Among the many cases this Court has presided over since rotating to a family court assignment almost two years ago, this one has involved perhaps the highest conflict. The Judge Pro Tem assigned to do the settlement conference on January 6, 2011 recognized as much, as did the Parenting Conference Provider who wrote a report dated October 25, 2010.

Throughout the pendency of this case, neither side has indicated a willingness to budge from the positions they were asserting. To make things even more difficult, the parties continue to level new accusations against each other that often strain credibility. It was no wonder that in the May 5, 2009 Minute Entry issued by Judge Flores following an evidentiary hearing on Mother's Motion for Modification of Child Support Order, the Court found neither party credible and the evidence each offered unreliable.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

Both parties have filed emergency motions without notice for modification of custody and parenting time and been denied. Several orders of protection have been issued and there has been ongoing police involvement. Both parties have filed criminal charges against the other for assault. The back and forth gamesmanship is frankly tiring. It also is particularly sad as the children inevitably will suffer from their parents' failures.

The Parenting Conference Provider questioned how these two parents were going to be able to cooperate to a level sufficient to justify joint legal custody. He said although Mother is willing to try, Father is not. Father did not believe the two parties could work together and, according to the Parenting Conference Provider, Father was willing to go to extremes to restrict Mother's parenting role as he had no interest in sharing significant parenting time with her.

At trial, the Court found the opposite to be true: Father was willing to compromise somewhat and at one point appeared willing to accept joint legal custody in return for a modification of Mother's parenting time. However, Mother was absolutely unwilling to compromise in any way, and became extremely resistant when the Court suggested that she might want to do so, especially considering the distinct possibility that the Court's ruling could be more favorable to Father.

Many allegations have been asserted by each party in support of the positions they have maintained throughout the case. To summarize in a way that is intended to be descriptive, but not exhaustive, each party has said or intimated about the other the following:

A. Reasons why Father maintains he should have sole custody

The parties cannot co-parent or communicate effectively as the level of conflict between them is extraordinarily high.

Both parties have filed criminal charges against the other, but only Mother has been convicted of a domestic violence offense.

Father says Mother consistently refuses to comply with Court orders regarding the location of parenting time exchanges and with the order for Isaiah to continue with his daycare program.

Mother does not exercise good judgment in decision making about the children, which puts the children at risk while in her care.

Mother's credibility is suspect when she says she was innocent of domestic violence but only pled guilty to prevent her children from having to come to court to testify. As the Court

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

pointed out to both parties at trial, a domestic violence conviction required Mother to make a factual basis for the crime and for the judge to accept the factual basis as true.

Mother's credibility is suspect when she claimed Father invited her to move in with him solely so that her fingerprints would be all over his residence when he staged a residential burglary for the purpose of presenting a fraudulent insurance claim and filing criminal charges against her.

Isaiah missed 23 days of school last year in Mother's care whereas he has missed far less when in Father's care.

Father contends that the majority of time when he gets Isaiah home from Mother's house, Isaiah is not prepared for school. Whereas Father reads constantly to Isaiah, Mother does not.

Mother frequently is late for daycare pick up when it is her parenting time or she does not show up at all.

Father is concerned that Mother is not meeting the kids' basic needs. To that end, he says that Isaiah is hardly sick when in his care but frequently sick while in Mother's care.

Mother contended that her probation from the criminal matter is stopping her from working, but she is still not working and her probation terminated almost a year ago.

Father says that Mother has committed acts of domestic violence against him by threatening him with a knife, trying to stab him, and macing him.

Father said Mother told Judge Flores that she was dying of breast cancer when this was not true.

Isaiah missed some of his sports events because Mother does not bring him to these activities. She admitted this at trial even though she knows how important it is to Isaiah.

Father contends that Mother has taken the children out of state without notifying him where they were going, when they were returning, and how to reach them while they were out of state.

On one occasion when Mother dropped the younger child, Elijah, off at Father's residential complex, he found the 3-year-old wandering in the parking lot unsupervised. According to Father, Mother had dropped the child off without even waiting to make certain that Father was home and available to take custody of the child at that time.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

B. Reasons why Mother maintains that Father should not have sole custody

On April 29, 2010, Mother obtained an Order of Protection against Father and said that he had threatened to kill her. She says he has made such threats on many other occasions.

Mother says Father has committed many acts of domestic violence against her. She identified no less than three incidents that occurred in 2008 involving acts of physical assault. On one occasion, she accused Father of slapping her 16-year-old daughter in the face, and on another occasion she accused Father of essentially raping her.

Mother accuses Father of attempting to alienate the children from her, lying to police, and refusing her access to the children on countless occasions when it was her parenting time. She says that Father, not her, is the one who repeatedly fails to comply.

Father has anger management issues and displays very aggressive behavior.

Father has continually tried to deny Mother access to information concerning the children's preschool and medical care.

Father has fraudulently altered court records when he submitted an order signed by Judge Reinstein to Isaiah's school to show that he had sole custody when he actually only had temporary custody until the next hearing. According to Mother, Father has also conspired with the daycare operator to falsify sign-in sheets in order to make it appear that the children are at daycare for longer periods than they actually are in order to receive DES benefits. Mother believes that ABC Preschool has been billing and receiving payment with Father's complicity from DES for times that the children did not attend.

Father has fraudulently submitted false claims and medical information to the VA and fraudulently been granted a disability.

Mother says that Father also has filed many false police reports and false CPS reports. She calls him a pathological liar who will say, do, or allege whatever he can to gain sole custody.

The Court order gives each the right of first refusal when child care is needed, but Father never allows Mother access during his parenting time, instead placing the children in daycare.

Mother claims that the children suffer injuries that Father tries to hide while they are in his care.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

Father has accused Mother of burglarizing his home at a time when she physically could not have done so since she was in the hospital.

The Court previously ordered that the children be known by their last names that appeared on their birth certificates, but Father refuses to do so and has encouraged ABC Preschool to do the same.

Mother was directed to be listed as an emergency contact at the preschool along with certain others should Mother not be available to pick the children up. Mother contends that the preschool has refused to honor this request, and she believes that Father is complicit with the preschool in making sure that Court orders are not followed.

Father claims that he never agreed for the children to be given Mother's last name at birth. However, the evidence shows that Father signed birth certificates acknowledging their legal names not just on one occasion, but twice.

Mother alleges that when Isaiah missed 23 days of school while in her care, it was because he was sick with a compromised immune system whereas Father has disregarded the child's health.

Mother claims that despite joint custody, Father has a history of not involving Mother in educational decisions involving choice of schools. She also says that he excludes her from all of the extracurricular activities for the children and will not even let her know the dates, times, and locations of these activities.

The Parenting Conference Report dated October 25, 2010 perhaps summed things up best when it stated that this case involves two parents with a history of significant conflict. The child custody issues are not that complicated. What complicates things is the conflict between the parents.

In considering the issue of custody, the Court in the first instance recognizes that the Arizona legislature recently revised A.R.S. § 25-103 to provide a new policy statement for Title 25. It is now the public policy of Arizona that absent evidence to the contrary, it is in a child's best interest to have substantial, frequent, meaningful, and continuing parenting time with both parents and to have both parents participate in decision making concerning the child. This is a clear indication that the legislature has mandated that joint custody is the norm and should be ordered absent evidence that one of the parents is unfit.

Arizona statutory law also provides that joint custody should not be awarded if the Court makes a finding of significant domestic violence or finds by a preponderance of the evidence that

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

there has been a significant history of domestic violence. A.R.S. § 25-403.03(A). In this case, the evidence does not support that there has been a significant history of domestic violence by Mother. Although she pled guilty to a misdemeanor charge of disorderly conduct and assault, she was put on probation and her probation has now been terminated. While Father claims there have been other instances whereby Mother has committed acts of domestic violence against him, she has never been arrested let alone charged with another crime. It also is worth noting that Mother claims Father has committed numerous acts of domestic violence against her, but he has never been convicted.

The one instance of domestic violence that Mother was convicted of does not in the Court's view warrant a finding of significant domestic violence. Therefore, the fact that Mother has been convicted once of misdemeanor domestic violence should not be a bar to a finding by this Court of joint custody.

When considering the issue of custody, the Court is guided by A.R.S. § 25-403. The statute requires that the Court consider all relevant factors. A.R.S. § 25-403(A) provides that the following factors are to be considered in making a best interest determination:

1. The wishes of the child's parent or parents as to custody. Father seeks sole custody with Mother having parenting time every other weekend and one night during the week. Mother wants to continue with joint legal custody and desires a week-on/week-off rotation.
2. The wishes of the children as to the custodian. There was no evidence submitted at trial as to what the children want, and the children were not interviewed by the Parenting Conference Provider. Nonetheless, Father testified that Isaiah, if asked, would say that he wanted to stay with Dad because Dad did more things with him. Mother told the Parenting Conference Provider that, in her opinion, the children would want to be with her. Father told the Parenting Conference Provider that the older child would want to live with him whereas the younger child is too young to express such feelings.
3. The interaction and inter-relationship of the children with their parents, siblings, and any other person who may significantly affect their best interests. Both parents testified that their relationship with the children is excellent and, despite disparaging the other personally, neither party indicated that the other party was in any way unfit to parent. There was no testimony offered about the inter-relationship of the children with any other person who might significantly affect their best interests.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

4. The children's adjustment to home, school, and community. Both parties testified that the children are well adjusted in their home. Father testified that Isaiah, who is the only school age child, is much better prepared for school when he stays with Father. Father indicated that he reads with Isaiah whereas Mother does not. Father indicated that he makes the children breakfast, whereas Mother does not. Father believes that Mother's health precludes her from actively parenting the children, whereas Father does everything with and for them.

Mother told the Parenting Conference Provider that she was never consulted by Father when he enrolled the children in their school/preschool. In choosing Elijah's preschool, Mother accused Father of not listing her as an emergency contact in an effort to deprive her of being involved in any aspect of the child's preschool activity. Mother says her health is "okay."

5. The mental and physical health of all individuals involved. Mother did not look well at trial. She looked pale, seemed to be in some distress, was frequently out of breath, and unsteady. This is not surprising considering that Mother on March 27, 2011 was hospitalized for two days with chest pain. She has a history of coronary artery disease, she had open-heart surgery 18 months ago when a heart bypass procedure was done, and multiple admissions for chest pain. Mother also has a history of depression. At one point in late 2002, she was hospitalized 30 days for depression, but she is not currently undergoing treatment.

Father acknowledged to the Parenting Conference Provider that he has had migraines every day for 13 years plus chronic body aches from being in the military, but that he takes no medication for these problems. Father testified that Isaiah has febrile seizures where his temperature spikes at 104 degrees. He stated that these happen almost always when the child is in Mother's care, but not when the child is with him. Otherwise, the children are in good health.

6. While parent is more likely to allow the children frequent and meaningful continuing contact with the other parent. Both parties have claimed throughout the litigation that the other party historically has ignored court orders and acted in a way to deny the other access to the children. Father has accused Mother of refusing to exchange the children when it is his parenting time, of taking the children out of state without providing him with a written itinerary of the trip plus contact information, and deliberately giving the children Mother's last name at birth by obtaining his signature on the birth certificate with incomplete information. Mother alleges that Father has refused her parenting time on countless occasions, has fabricated issues of custodial interference, has continually tried to deny her access to information concerning the

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

children's preschool and medical care, and she says that Father has denied her the right of first refusal when he works, preferring to place Elijah in preschool, even though Mother could take care of him. The Court finds that both parties will go out of their way to deny the other party frequent and meaningful continuing contact with the children if, for no other reason, out of spite. These parents do not like or trust each other and have been in a toxic relationship for quite some time.

7. Whether one parent, both parents, or neither parent has provided primary care for the children. The Court finds that both parties have been primary caregivers for the majority of the children's lives.
8. The nature and extent of coercion or duress used by a parent obtaining an agreement regarding custody. Neither parent has used coercion or duress to obtain an agreement regarding custody as no custody agreements have been reached.
9. Whether either parent has complied with Chapter 3, Article 5 of this Title. Both parties indicated to the Parenting Conference Provider that they attended the Parent Information Program in the past.
10. Whether either parent was convicted of an act of false reporting of child abuse or neglect under A.R.S. § 13-2907.02. Neither parent has been convicted of an act of false reporting of child abuse or neglect. However, both parties report that the other party has filed false police reports, as well as false reports to CPS, and violated the Orders of Protection in place.
11. Whether there has been domestic violence or child abuse as defined in A.R.S. § 25-403.03. As indicated, Mother was convicted of a misdemeanor charge of disorderly conduct and assault. She was put on probation with domestic violence terms. Her probationary term was completed, and she testified at trial that her record was "expunged." The Court has not found that this single act of domestic violence constitutes significant domestic violence or a significant history of domestic violence. Both parties have indicated in numerous references throughout the case that the other has engaged in significant domestic violence, although there have been no other convictions.
12. The agreement or lack of an agreement by the parties regarding joint custody. There has been no agreement reached by the parties concerning joint custody. In fact, throughout the case, Father has been adamant that sole custody should be awarded and he has never been willing to compromise until the day of trial.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

13. Whether a parent's lack of agreement is unreasonable or is influenced by an issue not related to the best interests of the child. The Court finds that both parties' positions on custody have been asserted in good faith. Although the Court does not agree that sole custody should be awarded, the Court understands Father's reasoning in that these parties have historically been unable to cooperate, communicate, and effectively co-parent.
14. The past, present, and future abilities of the parents to cooperate in decision making about the child to the extent required by the order of joint custody. Even though the Court believes that joint custody should be awarded, the Court remains very concerned about these parties' ability to cooperate in decision making. For that reason, the Court will appoint a Parenting Coordinator to assist the parties in their parenting time decisions. Moreover, the Court will order that one of the parties have final decision making authority specifically because of the historic lack of communication and cooperation between them on parenting issues.
15. Whether the joint custody arrangement is logistically possible. It is as the parties live in close geographic proximity to each other.

Based upon the foregoing, the Court finds that it is in the children's best interests for the parties to be granted joint custody. However, because these parents have tremendous difficulty co-parenting and making decisions in a cooperative vein, Father will be given final decision-making authority if the parties cannot otherwise come to an agreement on parenting issues after making a good faith effort to do so. In the Court's opinion, based on the evidence adduced, testimony elicited, and pleadings filed, Father is the parent who should have this ultimate authority in the event of non-agreement. If Mother disagrees with Father's ultimate decision, she can take the issue up with the Parenting Coordinator.

As indicated, a Parenting Coordinator shall be appointed by separate Minute Entry. The Court appoints Dr. Scott Baker, Ph.D. Due to the disparity between the parties' financial situation, Father shall pay two-thirds (2/3) of the Parenting Coordinator's fees and Mother shall pay one-third (1/3). However, after each conflict that arises has been handled by the Parenting Coordinator, the Parenting Coordinator can recommend that the fees for that conflict be re-allocated, and the Court will give the Parenting Coordinator's recommendation due consideration.

In considering the issue of parenting time, the Court is persuaded based on the evidence submitted at trial and the parties' testimony that Father, more than Mother, can prepare the children better for school. While both parties love the children very much and have developed closely bonded relationships with them, the Court remains concerned about Mother's health

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

problems and how that may impact her ability to parent the children. At trial, Mother introduced as an exhibit a CPS report summary dated March 25, 2010. In Mother's own document that was purportedly introduced to bolster her position, Isaiah told the CPS worker that Mother leaves him and Elijah unsupervised all the time. Isaiah reported that they have to play alone, eat alone, and do everything alone. A comment also was made that Isaiah became emotionally upset when Father left the room because he feared that Father would leave them alone like Mother does, although it is unclear if this recounts what Father told CPS or whether CPS observed this and Isaiah then confirmed it.

The Court believes that the children should be primarily with Father during the week and Mother on most weekends. Therefore, as proposed at trial, Mother will have parenting time three consecutive weekends, then Father will have a fourth weekend, then the cycle will repeat. Mother's parenting time on weekends will be from after school Friday until 7:30 p.m. Sunday. Additionally, Mother will have one overnight per week on Wednesday night. She will pick the children up from school on Wednesday and take Isaiah back to school Thursday morning. She can keep Elijah until 2:00 p.m. Thursday, at which time she will return him to the preschool where Father will be able to pick him up. Father will have parenting time on all other days during the week. During the summer, which is defined as beginning the Saturday after school ends and ending the Sunday before school begins, the parties will have parenting time on a one-week-on/one-week-off basis. Whichever parent has parenting time for the first weekend after school ends will have parenting time for the first week of summer.

While Mother undoubtedly will be disappointed with this modification of parenting time, the Court believes it to be in the children's best interests. Further, this plan still allows Mother meaningful time during the week. She will have the children 3 weekends out of the month now instead of 2, she will have the children for 3 overnights a week for most weeks whereas it used to average 3-1/2, and she will see the children for some period of time 5 days a week during most weeks.

Each party may take two weeks of vacation during the year but not more than 7 days at any one time. Vacations cannot be taken over major holidays. Before either party takes a vacation, he/she must afford the other party at least 90 days written notice.

Additionally, the Court directs the parties to abide by the following holiday plan (which plan supersedes the regular weekly schedule. In the event of conflict, the holiday plan governs):

- a. Christmas Eve and Christmas Day: Christmas Eve shall be deemed to begin on December 24th at 10:00 a.m. and continue until December 25th at 10:00 a.m. Christmas Day shall be deemed to begin on December 25th at 10:00 a.m. and continue until December 26th at 10:00 a.m. In each even-numbered year,

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

Father shall be entitled to parenting time with the children on Christmas Eve. In each odd-numbered year, Father shall be entitled to parenting time with the children on Christmas Day.

- b. Thanksgiving: Thanksgiving shall be split in half. In each odd-numbered year, Father shall have the children from the Wednesday afternoon before Thanksgiving until 4:00 p.m. on Thanksgiving Day, and Mother will have the children from 4:00 p.m. Thanksgiving Day to noon on the Friday after Thanksgiving. In each even-numbered year, the parties' schedule flip-flops.
- c. July 4th: July 4th shall be deemed to begin at 9:00 a.m. and continue until the start of school or 9:00 a.m. on July 5th. Father shall be entitled to parenting time with the children on July 4th in odd-numbered years.
- d. Easter: Easter shall be deemed to begin at 9:00 a.m. and end at 6:00 p.m. Father shall be entitled to parenting time with the children on Easter in even-numbered years, Mother in odd-numbered years.
- e. Mother's Day and Father's Day: Each year, the children shall be with Mother on Mother's Day from 9:00 a.m. until 6:00 p.m., and with Father on Father's Day from 9:00 a.m. until 6:00 p.m.
- f. Mother's Birthday and Father's Birthday: Each year, the children shall be with Mother on her birthday from 9:00 a.m. until 6:00 p.m., and with Father on his birthday from 9:00 a.m. until 6:00 p.m.
- g. Other Monday state holidays: The party entitled to physical custody of the children on the day before a Monday holiday shall also be entitled to physical custody of the children on the Monday holiday, ending at the same time on Monday that physical custody would have ended on Sunday.
- h. Halloween: The parties shall alternate Halloween. Mother shall have the children for Halloween from 5:00 p.m. until 8:00 p.m. in all even-numbered years, and Father in all odd-numbered years.
- i. Children's Birthday(s): The parties will work together to split the evening up reasonably if during a school day so that each parent can spend time with the child on his/her birthday. If the birthday falls on a weekend, the parties will reasonably split parenting access during the day.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

- j. Winter Break: Winter break shall be deemed to begin the Saturday after school is out and ending the Sunday before school begins. The parties shall equally divide winter break.
- k. Spring Break: Spring break is deemed to begin the Saturday after school is out and ending the Sunday before school begins. The parties shall equally divide spring break.

The children's last names shall now be either Robinson-Ice or Ice-Robinson. The choice will be Mother's since the children currently have only her last name. Mother is directed to file a notice with the Court within 10 days after her receipt of the Court's order to state which last name she would prefer. If Mother fails to choose in a timely fashion, the choice will revert to Father. If Father fails to choose within ten days thereafter, the Court will choose.

Once Mother makes her choice, the Department of Vital Statistics will be endorsed to make the necessary changes. From that point forward, the children will formally, officially, and legally have that last name. Both parents are directed to notify appropriate school and daycare authorities of this change.

All exchanges will continue to occur at daycare if it is open. If the daycare facility is closed, then exchanges shall continue to be at the Phoenix Police Department Cactus Substation, 39th Avenue and Cactus.

The issue concerning which parties are designated to pick up the children from preschool/school will be handled as follows: each parent must make the other parent their first choice to pick up the children if the other cannot. In the event the other parent is unavailable, then each parent can have a second person identified as their designee. Each party is directed to notify the preschool of who that second back-up designee shall be. At this time, the Court sees no need for each party to have more than one person, in addition to the other parent, as a back-up designee.

Father shall pay 100% of the daycare/after school costs as he is the only parent desirous of utilizing these services.

The right of first refusal for each parent is 12 hours. This makes each party the care provider of choice for the children if the party who has custody is unable to care for the children for more than a 12-hour period. In that event, the parent who is in need of child care shall first contact the other parent prior to making other arrangements for such child care to determine if that parent can or is able to care for the children during this absence of the custodial parent.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-002009

04/04/2011

To the extent these orders change the joint custody orders from the 6/12/08 Decree, these new orders govern. Otherwise, the terms of the original Decree still pertain and must be followed.

The Court has considered the issue of attorney's fees under A.R.S. § 25-324 and finds that both parties should bear their own fees and costs.

Finally, the parties are encouraged to cooperate in planning the children's extracurricular activities, and both parties are encouraged to attend all of the children's extracurricular activities. To that end, Mother shall allow Isaiah to participate in football on Saturdays even though it is her parenting time. If Mother does not wish to take Isaiah to practice or games and pick him up, then Father is directed to do so. However, he must return Isaiah immediately after practice or game ends. Other than football, which Father coaches, Father cannot enroll the children in any other activities that interfere with Mother's weekend or weekly parenting time without first obtaining her agreement.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, *Arizona Rules of Family Law Procedure*.

/S/ HON. ANDREW G. KLEIN

SUPERIOR COURT JUDGE
HON. ANDREW G. KLEIN

LATER: Let the record reflect that the Hearing Order, Amended Order of Protection, and Acceptance of Service are faxed to MCSO-OIC this date.

FILED: Exhibit Worksheet

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Orders 2010-117 and 2011-10 to determine their mandatory participation in eFiling through AZTurboCourt.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.